1

3

5 6

7

8

9

10

٧.

ISIDRO BACA, et al.,

11 12

13

14 15

16 17 18

20 21

19

222324

2526

28

27

UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

* * *

DENNIS SUDBERRY,

Petitioner,

i outloner,

Respondents.

Case No. 3:17-cv-00030-RCJ-VPC

ORDER

Petitioner Dennis Sudberry has submitted a *pro se* petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). While he has submitted an application to proceed *in forma pauperis*, he has failed to provide the requisite financial certificate or inmate account statements. Moreover, Sudberry sets forth no grounds for federal habeas relief in his petition; instead he states that prison medical personnel are violating his rights under the Americans with Disabilities Act (ADA).

Sudberry has not properly commenced a federal habeas matter. 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2. Moreover, if Sudberry claims that prison medical personnel have denied him a wheelchair, such a claim may be cognizable under the ADA or under 42 U.S.C. § 1983 as a violation of his Eighth Amendment rights. Such a claim does not, however, state a claim for which federal habeas relief may be granted.

Thus, the present action will be dismissed without prejudice to the filing of either a new petition in a new action or a civil rights complaint with either the appropriate filing fee or a completed application to proceed *in forma pauperis* on the proper form with

both an inmate account statement for the past six months and a properly executed financial certificate.

IT IS THEREFORE ORDERED that petitioner's incomplete application to proceed *in forma pauperis* (ECF No. 1) is **DENIED**.

IT IS FURTHER ORDERED that this action is **DISMISSED** without prejudice as set forth in this order.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**, as jurists of reason would not find the court's dismissal of this improperly commenced action without prejudice to be debatable or incorrect.

IT IS FURTHER ORDERED that the Clerk shall **ENTER JUDGMENT** accordingly and close this case.

DATED: 5 April 2017.

ROBERT C. JONES UNITED STATES DISTRICT JUDGE